

REMARKS

This amendment is in response to the Official Action mailed January 4, 2005.

In the present paper, claim 41 is amended and claims 48-51 are canceled (claims 1-27 and 37-40 having been canceled in a previous paper). Claims 28-36, 41-47 and 52-68 are presented for the Examiner's consideration in view of the following remarks.

The Present Application

The present application is directed to a system and method for modifying the operation of a personal communication device in a vehicle. The invention provides a technique for enforcing compliance, or for reminding cell phone users of restrictions imposed by government bodies or by other entities as those users enter new jurisdictions. In general, the method of the invention involves determining the location of the cell phone and whether it is being used in a vehicle, assessing the rules governing that location, and deducing whether there are any restrictions imposed on cell phone use. In various embodiments, the vehicular cell phone user may be reminded of the restrictions, or the restrictions may be enforced by, for example, refusing service on the cell phone.

Independent claim 28 of the present application is directed to a method for controlling the use of at least one personal communications device in a vehicle. The method includes the steps of, at a controller in the vehicle, deriving information relating to the geographic location of the vehicle, and, at the controller in the vehicle, deriving information relating to restrictions on the use of personal communications devices in at least one geographic region. The method also includes, at the controller in the vehicle, determining whether the geographic location of the vehicle bears a predetermined relationship to at least one of the geographic regions, and

transmitting a message from the controller in the vehicle to the at least one personal communications device imposing restrictions on use of each of the personal communications devices while the predetermined relationship exists.

The method of claim 28 utilizes a controller in the vehicle. By doing so, much of the functionality necessary for performing the method of the invention is shifted to the vehicle, reducing the functional requirements of the portable communications device. That is important in cases where the weight and expense of the communications device are an issue. Further, some functionality, such as a GPS positioning system, may already be included in the vehicle design. Finally, additional input from the vehicle itself, such as vehicle speed and the use of a reverse gear, are available to an in-vehicle system. A complete discussion of that system may be found in the present specification at page 18, line 23 – page 21, line 21.

The limitations of dependent claims 48 and 50 have been incorporated into independent claim 41. Amended independent claim 41 of the present application is directed to a method for controlling the use of a wireless personal communications device in a vehicle, where restrictions are imposed by a customer of a communications carrier having supervisory responsibility over the user. For example, an employer may restrict cell phone use in moving vehicles to reduce insurance premiums. That system is discussed in the present specification at least at p. 9, lines 14-22.

The method includes the initial step of deriving information relating to the geographic location of the personal communications device. Information is then derived relating to restrictions on the in-vehicle use of personal communications devices in each of a plurality of geographic regions, and it is determined whether the geographic location of the personal communications device bears a predetermined relationship to at least one of said geographic

regions. It is next determined whether the personal wireless communications device is being used in a vehicle. Restrictions on the in-vehicle use of the personal communications device while the predetermined relationship exists are determined.

The use of a personal communications device in amended claim 41 is pursuant to an arrangement with a communications carrier, and said restrictions comprise restrictions imposed by a customer of said carrier; said customer being a person having supervisory responsibility for at least one user of said personal communications device.

The Examiner has rejected claims 28-29, 36, 41-43 and 53-55 as anticipated by U.S. Patent No. 6,690,940 to Brown et al. ("Brown"), has rejected claims 30-35, 46-52 and 56-58 under 35 U.S.C. § 103(a) as unpatentable over Brown in view of U.S. Patent No. 6,470,447 to Lambert et al. ("Lambert"), and has rejected claims 44-45 and 60-61 under 35 U.S.C. § 103(a) as unpatentable over Brown in view of U.S. Patent No. 6,580,916 to Weisshaar et al. ("Weisshaar").

The Brown Patent

Brown is directed to a system for preventing non-emergency operation of wireless communication devices. Brown discloses systems for use in vehicles as well as non-vehicular applications such as a predetermined area around a building.

In one embodiment, Brown determines whether a telephone is in a predetermined area such as an area proximate a building (Brown, col. 6, lines 32-59). A telephone receives a signal that is of a certain strength receivable only within the predetermined area, indicating that the telephone is within that area.

In the embodiment in which the telephone is located in a vehicle, a “state” of the vehicle is communicated by a transmitter 16*a* (FIG. 1) to a receiver 16*b* in the communications device 12 and/or a receiver 16*c* at the service provider 20 (col. 5, lines 9-13).

In another embodiment, a GPS device is used to determine a position of the telephone (col. 6, line 59 – col. 7, line 5). In that embodiment, the coordinates are transmitted to the service provider, where coordinates corresponding to a predetermined area are stored. If the telephone is within the preselected area, a controller 18 within the service provider 20 disables the telephone (col. 6, lines 65-67).

The Lambert Patent

Lambert teaches a technique for dynamically controlling the encryption parameters used by a mobile device to ensure conformance to the cryptographic requirements of various countries. Based on local legislation, the system can change the cryptography characteristics or key, break the connection or disable the device (Lambert, col. 8, lines 58-64).

Discussion

CLAIMS 28-36

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131 (quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

Applicant respectfully submits that in the case of independent claim 28, Brown does not disclose at least three elements required by that claim, at least because the claim requires those functions to be performed “at said controller in said vehicle.” Applicant notes that, for the final step of “transmitting a message from said controller in said vehicle to said at least one personal communications device” to have meaning, the controller in the vehicle must be a device separate from the communications device.

By separating the functions performed by the controller in the vehicle from the personal communications device, much of the functionality necessary for performing the method of the invention is shifted to the vehicle. Those functions are unnecessary in a communications device that is not used in a vehicle, because the functions relate to rules restricting the use of a communications device in a vehicle.

The Examiner alleges that Brown at col. 8, lines 15-32 discloses “*at a controller in said vehicle, deriving information relating to the geographic location of said vehicle.*” Applicant respectfully submits that that passage of Brown discusses determining a location of the communications device within the vehicle; i.e., on the passenger’s side or the driver’s side. Brown is not discussing a geographic location, and Brown is not discussing a location of the vehicle. Elsewhere in Brown, there is no disclosure of deriving information relating to the geographic location of the vehicle at a controller in the vehicle. In Brown’s discussion of using a GPS (col. 6, line 59 – col. 7, line 5), Brown explicitly teaches communicating the coordinates to a service provider 20 via a service provider interface 22 in the phone 12, or a controller 18a in the phone. Brown does not disclose deriving that information “at a controller in said vehicle.”

The Examiner further alleges that Brown (at col. 1, lines 47-63 and col. 6, lines 32-58) teaches “*at said controller in said vehicle, deriving information relating to restrictions on the*

user of personal communications devices in at least one geographic area.” Applicant submits that Brown nowhere teaches performing that function in a controller in the vehicle. The cited passage in col. 1 of Brown discusses the various state variables used in restricting device use, but does not indicate where any restrictions are derived. The passage from Brown at col. 6, lines 32-58 is explicitly referring to “non-vehicular applications,” and therefore does not disclose that any information is derived at a controller in a vehicle.

Finally, the Examiner states that Brown discloses, at col. 1, line 64 – col. 2, line 2, and at col. 6, lines 32-58, “*at said controller in said vehicle, determining whether said geographic location of said vehicle bears a predetermined relationship to at least one of said geographic regions.*” The passage of Brown at col. 1 line 64 – col. 2, line 2 discusses a warning area adjacent a predetermined area (such as a building) as shown as element 32 in FIG. 3. That embodiment is discussed in more detail by Brown at col. 7, lines 6-25. There is no mention of a controller in a vehicle, as required by that element of claim 28.

As to the passage of Brown at col. 6, lines 32-58, as noted above, that passage refers to a non-vehicular application, and does not disclose that any information is derived at a controller in a vehicle.

Because Brown fails to disclose at least three elements of claim 28, as discussed above, Applicant respectfully submits that claim 28 is patentable over the cited references, and that claims 29-36, which depend on claim 28 and incorporate its limitations, are patentable for the same reasons.

CLAIMS 41-68

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. M.P.E.P. § 2143.03 (*citing In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)).

Claim 41 as amended incorporates the limitations of claims 48 and 50, which have been canceled. The incorporated limitation reads:

wherein said use of a personal communications device is pursuant to an arrangement with a communications carrier, and said restrictions comprise restrictions imposed by a customer of said carrier; said customer being a person having supervisory responsibility for at least one user of said personal communications device.

As noted above, imposing restrictions of a customer that has supervisory responsibility for at least one user permits the customer to control cell phone use by its employees, thereby increasing employee safety and potentially reducing insurance premiums.

The Examiner has rejected claim 50 over Brown in view of Lambert. Specifically, the Examiner cites Lambert at col. 8, lines 23-33 and col. 11, lines 15-22 as teaching the limitation quoted above. Applicant respectfully traverses that rejection. Both passages cited by the Examiner are directed to controlling encryption and decryption performance based on legislative requirements while taking into account the capabilities of application programs at either end of the connection. That concept is further explained in detail at col. 7, lines 14-30.

In contrast, amended claim 41 requires a customer imposing restrictions on the in-vehicle use of personal communications devices in each of a plurality of geographic regions, the customer having supervisory responsibility for at least one communications device user.

Applicant submits that that element is not taught or suggested by Lambert or by any other art of record.

Applicant therefore respectfully submits that independent claim 41 and dependent claims 42-47 and 52-68 are patentable for at least that reason.


Conclusion

Because the cited references do not teach all the elements contained in the amended claims, Applicant submits that all of the claims are novel over the cited references and patentable over the combination made by the Examiner. Applicant therefore asserts that claims 28-36, 41-47 and 52-68 are now in condition for allowance, and Applicant earnestly requests that the Examiner issue a Notice of Allowance.

Should the Examiner have any questions regarding the present case, the Examiner should not hesitate to contact the undersigned at the number provided below.

Respectfully,

By


Robert T. Canavan
Reg. No. 37,592

Canavan & Monka LLC
250 State Route 28, Suite 207
Bridgewater, NJ 08807
Telephone: 908-707-1568
Fax: 908-707-1574

Date: 3/29/05